

REMARKS

Applicants submit this Amendment in reply to the Office Action mailed July 7, 2004.

By this Amendment, Applicants have amended claims 11 and 45. Claims 11, 45, 47-57, 59-65, and 67-68 are pending in this application. Claims 11 and 45 are independent claims.

On pages 2-6 of the Office Action, claims 11, 45, 48, 50-55, and 61-63 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,306,294 to Winston et al. ("Winston") in view of either U.S. Patent No. 5,968,052 to Sullivan et al. ("Sullivan") or U.S. Patent No. 5,851,210 to Torossian ("Torossian"); claims 47 and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Winston in view of either Sullivan or Torossian, and further in view of U.S. Patent No. 5,810,837 to Hofman et al. ("Hofman"); and claims 56-57, 59-60, 64-65, and 67-68 were rejected under 35 U.S.C. §103(a) as being unpatentable over Winston in view of either Sullivan or Torossian and further in view of U.S. Patent No. 5,100,381 to Burns ("Burns"). Insofar as the Examiner may apply these rejections to the amended claims, Applicants respectfully traverse these rejections and assert that none of Winston, Sullivan, Torossian, Hofman, or Burns, either individually or in combination, recite every aspect of the claimed invention.

For example, independent claims 11 and 45, as amended, each recite "an outer tubular structure having a proximal end, a distal end, an inner surface defining a lumen, and an outer surface, wherein the outer tubular structure has a translucent region at the distal end and the translucent region has a length less than a constrained length of a

stent to be placed within the outer tubular structure, wherein the outer tubular structure is devoid of braiding along the length of the translucent region between the inner and outer surfaces.” Support for this subject matter can be found, for example, at page 14, lines 2-3 of the originally-filed specification and Fig. 5b which shows dimensional relationships between structures. No new matter has been introduced.

None of Winston, Sullivan, Torossian, Hofman, or Burns, either individually or in combination, recites at least the features of the outer tubular structure of the claimed invention. On page 2 of the Office Action, the Examiner admits that Winston fails to disclose a translucent region at the distal end of an outer tubular structure. The Examiner, however, asserts that the retractable outer sheath 14 of Sullivan corresponds to “the outer tubular structure [having] a translucent region at the distal end.” Even assuming *arguendo* that this is correct, Sullivan does not disclose that “the translucent region has a length less than a constrained length of a stent to be placed within the outer tubular structure,” as Figs. 5 and 8 of Sullivan disclose that stent 18 is shorter in length than the retractable outer sheath. Moreover, in its preferred embodiment, Sullivan discloses that retractable outer sheath 14 “covers the distal 10-20 cm (depending on stent length) of the catheter body 12.” (Col. 3, lines 24-27). However, the preferred embodiment of Sullivan also discloses that the length of the stent ranges from 20-100 mm (i.e., 2-10 cm). (Col. 3, lines 33-35). Accordingly, in no embodiment does Sullivan disclose that the retractable outer sheath 14 has a length less than the a length of the stent.

On page 3 of the Office Action, the Examiner asserts that the length of the distal end region of the outer tubular structure 40 of Torossian “substantially coincides with a

constrained length of the stent." Even assuming that the Examiner is correct in asserting that the protective sheath 40 corresponds to "the outer tubular structure [having] a translucent region at the distal end," neither the specification nor the drawings of Torossian disclose that "the translucent region has a length less than a constrained length of a stent to be placed within the outer tubular structure." Indeed, Torossian discloses that protective sheath 40 extends between tapered end 42 at a distal end of the catheter and sheath adapter 44 that secures the protective sheath to the delivery catheter 14 at the proximal end. (Col. 5, lines 50-54). The sheath 40 therefore extends along much of the catheter and certainly has a length greater than stent 12. Thus, Torossian does not disclose that "the translucent region has a length less than a constrained length of a stent to be placed within the outer tubular structure," as set forth in claims 11 and 45.

Furthermore, neither Hofman nor Burns remedy at least this deficiency of Winston, Sullivan, and Torossian. Accordingly, Applicants respectfully request withdrawal of the Section 103(a) rejections.

Claims 47-57, 59-65, 67, and 68 depend from one of independent claims 11 and 45, and are therefore allowable for at least the same reasons that each of those respective independent claims is allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor suggested by Winston, Sullivan, Torossian, Hofman, Burns, or other cited art, and therefore are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this

application. Applicants therefore request entry of the aforementioned amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action. For example, on page 4 of the Office Action, the Examiner asserts that certain claim features are admitted to be in the prior art. Applicants do not necessarily agree with that assertion and reserve the right to refute the assertion should the need arise.

In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment and
charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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